

Statement of Bill McCrory, PMB 284 212 Ironwood Drive, Ste. D, Coeur d'Alene, ID 83814, Telephone 208-769-9720,  
To the Coeur d'Alene City Council on May 18, 2004

My name is Bill McCrory. My mailing address is PMB 284, 212 Ironwood Drive, Suite D, Coeur d'Alene, and my primary residence is in Coeur d'Alene Place. My purpose is to comment on the ongoing Zoning Ordinance violation by the owner of the property at **[REDACTED]** who is renting the house to as many as four convicted felons on state supervised probation or parole.

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### Obligation to Enforce Ordinances

The Zoning Ordinance is neither specifically prohibited by nor in conflict with the general laws or the state constitution. It is enforceable.

The city may be enjoined or sued by people who believe that its enforcement will or has damaged them, but until a **court** orders **you** to stop enforcing it or until **you** enact a new ordinance that repeals or amends the old one, **your** obligation is to enforce it. Your refusing to enforce the Zoning Ordinance has the effect of repealing the ordinance without a public hearing and unlawfully depriving property owners of its protections. In addition to being nonfeasance (*ref: 17.01.030*), **your** willful failure to enforce the Zoning Ordinance would be an admission to current property owners and prospective property buyers: That Coeur d'Alene enforces its Zoning Ordinance inconsistently, preferentially, and differentially.

Property owners do not have the option of willfully violating the Zoning Ordinance simply because it does not suit their economic or social purposes. Property owners are obliged to comply with the Zoning Ordinance while working lawfully to amend or repeal it. When any property owner flagrantly violates the Zoning Ordinance, the city has an absolute obligation to enforce the ordinance even while considering amending or repealing it.

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### Family

The city's definition of "family" does not fatally flaw the Zoning Ordinance and prevent its enforcement or excuse its nonenforcement.

**[REDACTED]** is in an R-8 zone. That zone's **principal** permitted uses are at 17.05.100.

At 17.05.120 the Ordinance lists other uses which might be allowed by special use permit in an R-8 zone. A "**juvenile** offenders facility" is allowable by special use permit in an R-8 zone. The council could have included the logical companion use "**adult** offenders facility", but it didn't. Why not? Because it was the city council's **explicit intent to exclude** adult offenders from being housed in an R-8 zone. Subsequent councils have reaffirmed that intention by not amending the ordinance to include "**adult** offenders facility." Thus, you have full legal authority to prohibit any housing of adult offenders in an R-8 zone.

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### Criminal Transitional Facility

The existing use of **[REDACTED]** most closely portrays a Criminal Transitional Facility, defined at 17.03.040.F.

It is a short-term transitional living accommodation.

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At no time in any 24-hour period are the occupants excused from the terms of their supervised probation or parole. To assert that they are not under 24-hour supervision at the residence is to admit they are unsupervised **any** time they are not in the presence of a state agent. That is hardly reassuring to the neighbors reasonably concerned about their own and their children's safety.

The city attorney reasons that the definition is met only if the house is occupied by three or more parolees, believing only parolees and not probationers can be released from a correctional institution. Not so. Probation rather than incarceration is an alternative for offenders sentenced to a retained jurisdiction commitment by the court at both the South Boise Women's Correctional Center and the North Idaho Correctional Institution at Cottonwood.

But even if **you** believe the house does not precisely meet the definition, the actual use of the house most closely portrays the use of a criminal transitional facility. The city Zoning Ordinance provides at 17.03.020 that "Any activity or facility which is not expressly classified within any activity group **shall** be included in that group whose description most closely portrays it." So where in the Zoning Ordinance, if not in "Criminal Transitional Facility", would **you** include a short term transitional living accommodation for convicted felons on state supervised probation or parole?

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### **What did the city know and when did it know it?**

The city said it first learned of the house's use from the neighbors late during the week of April 4-10, long after felons on parole and probation were already occupying it. If the city is being truthful, why did the Coeur d'Alene Police Department have to learn about its occupancy after-the-fact and from the neighbors rather than beforehand from the Kootenai County Sheriff or the state?

State law at Title 20, Section 20-234, requires that once parole was granted, the Commission was **required** to transmit to the Kootenai County Sheriff and Prosecuting Attorney a copy of the parole agreement and information about the place of residence of each parolee. The same law then **required** the Sheriff to make this notification to the Coeur d'Alene Police Department and other pertinent agencies.

To believe the city, we are expected to believe that didn't happen and that the Idaho State Commission for Pardons and Parole or the Kootenai County Sheriff violated state law not once but twice or they were professionally derelict in the timeliness of their notifications.

In conclusion, I ask:

- How does allowing convicted felons on state supervised probation and parole to live in an R-8 zone in clear violation of the Zoning Ordinance fulfill the Ordinance's stated general purposes to protect and promote the public health, safety, convenience and general welfare?
- How do you as the elected officials charged with the Ordinance's enforcement plan to proceed against the property owner who willfully violated the Ordinance? Consider your answer carefully, because if it is that you intend to take no action, then why should any of the rest of us obey the Ordinances, and why should we place any trust and confidence in you to fulfill your obligations of your offices?

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